

Attorney Docket No.: DEX-0075
Inventors: Macina and Sun
Serial No.: 09/618,596
Filing Date: July 17, 2000
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REMARKS

Claim 1 is pending in the instant application. Claim 1 has been rejected. Claim 1 has been amended. No new matter is added by this amendment. Reconsideration is respectfully requested in light of this amendment and the following remarks.

I. Rejection of Claim 1 under 35 U.S.C. § 112, second paragraph

Claim 1 has been rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner suggests that claim 1 is vague and indefinite in the recitation "determining levels of colon specific gene. The Examiner suggests that it is unclear how the gene is measured. Thus, in an earnest effort to advance the prosecution of this case, and in accordance with the Examiner's suggestion, Applicants have amended the claim to delete the phrase and make clear that levels of a polynucleotide comprising SEQ ID NO:1 or the polypeptide encoded thereby are determined.

Withdrawal of this rejection under 35 U.S.C. § 112, second paragraph is respectfully requested in light of the amendments to the claim.

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II. Provisional Obviousness-type Double Patenting Rejection

Claim 1 has been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending U.S. Patent Application No. 09/700,769 (filed January 4, 2001). The Examiner suggests that while the instant application specifies that the CSG comprises a polynucleotide of SEQ ID NO:1 or the encoded polypeptide, the broad claim of application '769 encompasses any CSG.

It is respectfully pointed out, however, that an amendment was filed in copending U.S. Patent Application 09/700,769 on July 1, 2004 wherein claim 1 was canceled and new claim 7 drawn to measuring levels of a polynucleotide comprising SEQ ID NO:3 or native protein encoded by SEQ ID NO:3 was presented. Thus, claims of copending U.S. Patent Application 09/700,769 are no longer drawn broadly to encompass any CSG.

Withdrawal of this provisional obviousness-type double patenting rejection is therefore respectfully requested.

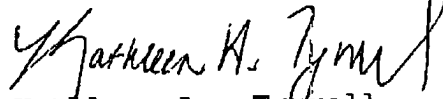
III. Conclusion

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly,

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favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,



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